Attorney Docket No. 81232 7114

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Serial No.: 10/806,712 Applicant(s): Nishikawa et al. Filing Date: March 23, 2004 Title: AUTOMATIC CONTENT DISPLAY APPARATUS AND METHOD Examiner: Joshua D. Taylor Art Unit: 2426 Customer No.: 37123 Confirmation No.: 2664	**Certificate of Transmission/Mailing/Express Mailing:** Facsimile Transmission number (571) 273-8300 or "Express Mail" mailing label number _____ if applicable. I hereby certify that this correspondence is being: [ ] facsimile transmitted to the USPTO, under 37 C.F.R. § 1.8, [ ] electronically transmitted via the USPTO electronic filing system, under 37 C.F.R. § 1.6(a)(4), [ ] deposited with the United States Postal Service with sufficient postage as first class mail in an envelope, under 37 CFR § 1.8, or [ ] deposited with the United States Postal Service as "Express Mail Post Office to Addressee" service, under 37 C.F.R. § 1.10, on the below indicated date and is addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. Typed/Printed Name of Person Transmitting, Mailing, or Express-Mailing Correspondence: MayLin Dettaan Signature: MayLin Dettaan Date of Deposit: September 2, 2010

Mail Stop: Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF
UNDER 35 U.S.C. § 143(A), 37 C.F.R. § 41.37

To the Board:

This document is an Appeal Brief in support of the Notice of Appeal, filed on July 2, 2010, under 35 U.S.C. § 143(A) and 37 C.F.R. § 41.37.

TABLE OF CONTENTS

SECTION

I. REAL PARTY IN INTEREST

The real parties in interest are the Assignees of the subject matter in the above-referenced patent application, Sony Corporation, a Japanese corporation, 1-7-1 Konan, Minato-Ku, Tokyo, 1008-0075, Japan, and Sony Electronics, Inc., a Delaware corporation, 1 Sony Drive, Park Ridge, New Jersey 07656 (new address).

II. RELATED APPEALS AND INTERFERENCES

On information and belief, the following related appeals or interferences are pending: (1) U.S. Patent Application Serial No. 10/806,767 (Attorney Docket No. 81235 7114) for "Multi-Source Programming Guide Apparatus and Method," filed on March 23, 2004, and the Notice of Appeal being filed on July 2, 2010, BPAI Appeal No. (to be assigned) and (2) U.S. Patent Application Serial No. 10/806,832 (Attorney Docket No. 81205 7114) for "Filter Criteria and Results Display Apparatus and Method," filed on March 23, 2004, and the Notice of Appeal being filed on July 1, 2009, BPAI Appeal No. 2010-006452.

III. STATUS OF CLAIMS

The present application has been originally filed with Claims 1-19 on March 23, 2004. A Response to a Non-Final Office Action has been filed on May 27, 2008, wherein the Claims have not been amended. An Amendment in a Response to a Final Office Action has been filed on October 20, 2008, wherein the Claims 1, 9, and 15 have been amended.

A first Request for Continued Examination in response to an Advisory Action has been filed on November 20, 2008, wherein entry of the October 20, 2008, Amendment has been requested. An Amendment in a Response to a Non-Final office Action has been filed on March 9, 2009, wherein Claims 1, 9, and 15 have been amended, and wherein Claim 20 has been added. An Amendment in a Response to a Final Office Action has been filed on July 2, 2009, wherein the Claims have not been further amended.

A second Request for Continued Examination in response to an Advisory Action has been filed on August 24, 2009, with an Amendment, wherein Claims 1, 5, 9, 11, 15, and 20 have been amended. An Amendment in a Response to a Non-Final office Action has been filed on February 9, 2010, wherein Claims 1, 9, and 15 have been amended. Claims 1-20 have been finally rejected in the Final Office Action, dated April 13, 2010. An Amendment in a Response to a Final Office Action has been filed on June 14, 2010, wherein Claims 1, 2, 5, 7, 9, 11, 15, 17, and 20 have been further amended after final rejection.

Accordingly, Claims 1-20, as reflected in the February 9, 2010, Amendment and in the July 2, 2010, Notice of Appeal, having been filed in response to the June 30, 2010, Advisory Action, are the subject of this Appeal. The Claims that are subject of this Appeal are attached hereto as Appendix A.

IV. STATUS OF AMENDMENTS

An Amendment in a Response to a Final Office Action has been filed on June 14, 2010, wherein Claims 1, 2, 5, 7, 9, 11, 15, 17, and 20 have been further amended after final rejection. However, the June 14, 2010, Amendment has not been entered as noted in the June 30, 2010, Advisory Action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claims 1, 9, and 15 are independent claims in this Appeal. The subject matter of independent Claims 1 and 9 relate to the Appellants' method of automatically displaying content to at least one user. The subject matter of independent Claim 15 relates to the Appellants' interactive automatic display system for at least one user.

Independent Claim 1 addresses a method of automatically displaying content to at least one user (Specification, Para. 13), comprising: providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of data (Specification, Para. 32); on a display comprising a two-dimensional display region (Specification, Para. 35), simultaneously providing a plurality of discrete indicators (Specification, Para. 23) within the two-dimensional display region (Specification, Para. 35) for at least some of the discrete selectable items of data (Specification, Para. 23), which discrete indicators comprise at least a portion of the characterizing descriptors as corresponds to the discrete selectable items of data (Specification, Para. 23); providing a segregated display area within the two-dimensional display region (Specification, Para. 35); and automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators (Specification, Para. 38); providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, ll. 18-26), the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 10, ll. 21-23), the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, l. 26; p. 10, ll. 22-23), wherein the step of providing the at least one smart filter comprises providing at least two user-selectable characterizing descriptor filters (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, ll.

16-17, ll. 25-26), wherein the step of providing the at least two user-selectable characterizing descriptor filters comprises providing the descriptor filters in a relationship selected from a group consisting essentially of a shared common filter criteria set and a mutually exclusive filter criteria set (Related Application: Attorney Docket No. 81229/7114, U.S. Patent Application Serial No. 10/806,646, Specification, Para. 35), and wherein the at least one smart filter providing step comprises simultaneously considering content across a plurality of media, thereby providing a coordinated joint display comprising a plurality of integrated results (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, ll. 18-19; p. 10, ll. 15-16), the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, ll. 7-9; Related Application: Attorney Docket No. 81229/7114, U.S. Patent Application Serial No. 10/806,646, Specification, Paras. 13 and 31; Related Application: Attorney Docket No. 81205/7114, U.S. Patent Application Serial No. 10/806,832, Specification, Paras. 13 and 29); and automatically displaying additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area (Specification, Para. 39). The method of independent Claim 1 is also generally illustrated in Figure 2. Claims 2-8 and 20 ultimately depend from Claim 1 as their base claim.

Independent Claim 9 addresses a method of automatically displaying content to at least one user (Specification, Para. 13), comprising: providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of data (Specification, Para. 32); providing a plurality of user-selectable characterizing descriptor filter criteria (Specification, Para. 34); on a display comprising a two-dimensional display region (Specification, Para. 35; Figs. 4-7), simultaneously providing a plurality of discrete indicators (Specification, Para. 23) within the two-dimensional display region (Specification, Para. 35) for at least a portion of the discrete selectable items of data as corresponds to a present selection of a characterizing descriptor filter criterion (Specification, Para. 23), which discrete indicators comprise at least a portion of the characterizing descriptors as corresponds to the discrete selectable items of data

(originally presented Claim 9); providing a segregated display area within the two-dimensional display region (Specification, Para. 35); and automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators (Specification, Para. 35); providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, ll. 18-26), the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 10, ll. 21-23), the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, ll. 26; p. 10, ll. 22-23), wherein the step of providing the at least one smart filter comprises providing at least two user-selectable characterizing descriptor filters (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, ll. 16-17, ll. 25-26), wherein the step of providing the at least two user-selectable characterizing descriptor filters comprises providing the descriptor filters in a relationship selected from a group consisting essentially of a shared common filter criteria set and a mutually exclusive filter criteria set (Related Application: Attorney Docket No. 81229/7114, U.S. Patent Application Serial No. 10/806,646, Specification, Para. 35), and wherein the at least one smart filter simultaneously considers content across a plurality of media, thereby providing a coordinated joint display comprising a plurality of integrated results, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, ll. 7-9; Related Application: Attorney Docket No. 81229/7114, U.S. Patent Application Serial No. 10/806,646, Specification, Paras. 13 and 31; Related Application: Attorney Docket No. 81205/7114, U.S. Patent Application Serial No. 10/806,832, Specification, Para. 13 and 29); and automatically displaying additional content as corresponds to the characterizing descriptors for a given one of the discrete

indicators as interacts in a predetermined way, at least in part, with the segregated display area (Specification, Para. 39). The system of independent Claim 9 is also generally illustrated in Figure 3. Claims 10-14 ultimately depend from Claim 9 as their base claim.

Independent Claim 15 addresses an interactive automatic data display system for at least one user (Specification, Para. 13), comprising: characterizing descriptors as individually correspond to a plurality of discrete selectable items of data (Specification, Para. 32); at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, ll. 18-26), the at least one smart filter comprising an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, each at least one smart filter being customizable for each at least one user (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, l. 26; p. 10, ll. 22-23), wherein the at least one smart filter comprises at least two user-selectable characterizing descriptor filters (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, ll. 16-17; p. 10, ll. 25-26), wherein the at least two user-selectable characterizing descriptor filters comprise a relationship selected from a group consisting essentially of a shared common filter criteria set and a mutually exclusive filter criteria set (Related Application: Attorney Docket No. 81229/7114, U.S. Patent Application Serial No. 10/806,646, Specification, Para. 35), and wherein the at least one smart filter simultaneously considers content across a plurality of media, whereby a coordinated joint display, comprising a plurality of integrated results, is provided (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, ll. 18-19; p. 10, ll. 15-16), the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats (Priority Document: U.S. Provisional Patent Application Serial No. 60/520,752, p. 8, ll. 7-9; Related Application: Attorney Docket No. 81229/7114, U.S. Patent Application Serial No. 10/806,646, Specification, Paras. 13 and 31; Related Application: Attorney Docket No. 81205/7114, U.S. Patent Application Serial No. 10/806,832, Specification, Para. 13 and 29); and control circuitry (Specification, Para. 27) that: displays a plurality of discrete indicators within a

two-dimensional display region for at least some of the discrete selectable items of data (Specification, Para. 33), which discrete indicators comprise at least a portion of the characterizing descriptors as corresponds to the discrete selectable items of data (Specification, Para. 32); provides a segregated display area within the two-dimensional display region (Specification, Para. 35); automatically causes relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators (Specification, Para. 38); and automatically displays additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area (Specification, Para. 39). The system of independent Claim 15 is also generally illustrated in Figure 8. Claims 16-19 ultimately depend from Claim 15 as their base claim.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether Claims 1-8 and 15-20 are unpatentable, under 35 U.S.C. § 103(a), over Knudson et al. (US 7386871), in view of Ahmad et al. (US 6263507), and in further view of McCoskey (US 2003/0028889)

B. Whether Claims 9-14 are unpatentable, under 35 U.S.C. § 103(a), over Knudson et al. (US 7386871), in view of Ahmad et al. (US 6263507), and in further view of Reisman (US 2004/0031058) and McCoskey (US 2003/0028889)

C. Whether, in finally rejecting Claims 1-20, the Examiner has erred, as a matter of law, in failing to consider and treat the present application, having more than three (3) actions and a pendency of more than five (5) years, as "special," under MPEP §§ 707.02 and 708.01

VII. ARGUMENT

A. Whether Claims 1-8 and 15-20 are unpatentable, under 35 U.S.C. § 103(a), over Knudson et al. (US 7386871), in view of Ahmad et al. (US 6263507), and in further view of McCoskey et al. (US 2003/0028889)

1. Specific Nature of the Rejection as to Issue A

Claims 1-8 and 15-20 have been rejected, under 35 U.S.C. § 103(a), as being unpatentable over Knudson et al. (US 7386871), in view of Ahmad et al. (US 6263507), and in further view of McCoskey et al. (US 2003/0028889), on the grounds that Knudson et al. disclose "... a method of displaying content to at least one user ...[,]" that Ahmad et al. disclose "... automatically displaying additional, related information based on the current position of a marker ...[,]" and that McCoskey et al. disclose "... providing at least one smart filter ...." (April 13, 2010, Final Office Action, Section 4). The Appellants respectfully traverse these grounds for rejection on this basis.

2. Analysis of the patentable distinctions between the present invention and Knudson et al. (US 7386871), in view of Ahmad et al. (US 6263507), and in further view of McCoskey et al. (US 2003/0028889) as to Issue A

The law, under 35 U.S.C. § 103, is well settled that, for a cited reference or a combination of references to render obvious a claimed invention, the combination of the claimed elements and limitations must be taught, suggested, motivated, or otherwise obviated by that cited reference or that combination of cited references, even under *KSR v. Teleflex, Inc., et al.*, 550 U.S. 398, 127 S.Ct. 1727, 82 U.S.P.Q.2d 1385 (2007). See also *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985); *In re Hoch,* 428 F.2d 1341, 1342 n.3 166 USPQ 406, 407 n. 3 (CCPA 1970); and *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966).

In particular, *KSR v. Teleflex* holds that the proper objective framework for such an obviousness inquiry is set forth in *Graham v. John Deere Co.*, 383 U.S. 1 (1966), (*KSR International v. Teleflex, Inc. et al.,* Slip Op 04-1350 at 17): "Under *§ 103*, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and *the level of ordinary skill in the pertinent art* resolved." [Emphasis added.]

The combination of elements and limitations, *inter alia*, that patentably distinguish independent Claim 1, as amended on February 9, 2010, from Knudson et al. (US 7386871), in view of Ahmad et al. (US 6263507), and in further view of McCoskey et al. (US 2003/0028889), are as follows:

a. "providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of data;"

b. "on a display comprising a two-dimensional display region,"

c. "simultaneously providing a plurality of discrete indicators within the two-dimensional display region for at least some of the discrete selectable items of data, which discrete indicators comprise at least a portion of the characterizing descriptors as corresponds to the discrete selectable items of data;"

d. "providing a segregated display area within the two-dimensional display region;" and

e. "**automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators**;"

f. "**providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user**,"

g. "**wherein the step of providing the at least one smart filter comprises providing at least two user-selectable characterizing descriptor filters,**"

h. "**wherein the step of providing the at least two user-selectable characterizing descriptor filters comprises providing the descriptor filters in a relationship selected from a group consisting essentially of a shared common filter criteria set and a mutually exclusive filter criteria set,**" and

i. "**wherein the at least one smart filter providing step comprises simultaneously considering content across a plurality of media, thereby providing a coordinated joint display comprising a plurality of integrated results, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats;**" and

j. "**automatically displaying additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area.**" [Emphasis added.]

Accordingly, Claims 2-8 and 20, subsuming the combination of elements and limitations of base Claim 1 by dependency, are also believed to be patentably distinct over Knudson et al. (US 7386871), even in view of Ahmad et al. (US 6263507), and even in further view of McCoskey et al. (US 2003/0028889).

The combination of elements and limitations, *inter alia*, that patentably distinguish independent Claim 15, as amended on February 9, 2010, from Knudson et al. (US 7386871), even in view of Ahmad et al. (US 6263507), and even in further view of McCoskey et al. (US 2003/0028889), are as follows:

a. "characterizing descriptors as individually correspond to a plurality of discrete selectable items of data;"

b. "**at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter comprising an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer**

identification, and a keyword, each at least one smart filter being customizable for each at least one user,"

c. "**wherein the at least one smart filter comprises at least two user-selectable characterizing descriptor filters,**"

d. "**wherein the at least two user-selectable characterizing descriptor filters comprise a relationship selected from a group consisting essentially of a shared common filter criteria set and a mutually exclusive filter criteria set,**" and

e. "**wherein the at least one smart filter simultaneously considers content across a plurality of media, whereby a coordinated joint display, comprising a plurality of integrated results, is provided, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats;**" and

f. "control circuitry that:"

g. "displays a plurality of discrete indicators within a two-dimensional display region for at least some of the discrete selectable items of data, which discrete indicators comprise at least a portion of the characterizing descriptors as corresponds to the discrete selectable items of data;"

h. "provides a segregated display area within the two-dimensional display region;"

i. "**automatically causes relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators;**" and

j. "automatically displays additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area." [Emphasis added.]

Accordingly, Claims 16-19 are believed to be patentably distinct over Knudson et al. (US 7386871), even in view of Ahmad et al. (US 6263507), and even in further view of McCoskey et al. (US 2003/0028889).

Analyzing the facts as to Claims 1-8 and 15-20 in relation to Issue A, the Examiner concedes that Knudson et al. do not teach "automatically displaying additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area" and that Knudson et al. and that Ahmad et al. do not teach "providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, ... the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user" (April 13, 2010, Final Office Action, Section 4).

With respect to the primary cited reference under this ground for rejection, Knudson et al. merely disclose: "A program guide system is provided in which an interactive television program guide that is implemented at least partially on user television equipment receives program listings data and real-time data such as sports scores, news data, and the like. The real-time data may be stored in a database maintained by the program guide, so that the program guide may access the stored real-time data at a later time. Updated program listings information may be provided to the program guide as part of the data stream in which the real-time data is provided. Unique keys may be generated for the program listings data and real-time data associated with each live event. The keys may be compared at the program guide to determine which program listings correspond to which items of real-time data. A controllable ticker may be displayed on top of a television program on the user television equipment. The controllable ticker may be sponsored. Different types of real-time data may be assigned different expiration times. When data has expired it may be removed from the database." (Abstract).

With respect to the secondary cited reference under this ground for rejection, Ahmad et al. merely disclose: "The invention facilitates and enhances review of a body of information (that can be represented by a set of audio data, video data, text data or some combination of the three), enabling the body of information to be quickly reviewed to obtain an overview of the content of the body of information and allowing flexibility in the manner in which the body of

information is reviewed. In a particular application of the invention, the content of audiovisual news programs is acquired from a first set of one or more information sources (e.g., television news programs) and text news stories are acquired from a second set of one or more information sources (e.g., on-line news services or news wire services). In such a particular application, the invention can enable the user to access the news stories of audiovisual news programs in a random manner so that the user can move quickly among news stories or news programs. The invention can also enable the user to quickly locate news stories pertaining to a particular subject. Additionally, when the user is observing a particular news story in a news program, the invention can identify and display related news stories. The invention can also enable the user to control the display of the news programs by, for example, speeding up the display, causing a summary of one or more news stories to be displayed, or pausing the display of the news stories. Additionally, the invention can indicate to the user which news story is currently being viewed, as well as which news stories have previously been viewed." (Abstract).

With respect to the tertiary cited reference under this ground for rejection, McCoskey et al. actually disclose: "A system for searching, packaging and delivering content using an aggregator is described. The aggregator processes requests, searches, provides search results and acquires content. The aggregator, operating in a communications network, includes a request and results processing server, a search engine server coupled to the request and results processing server and a content acquisition server coupled to the request and results processing server. A request and results processing server receives a request for content, the search engine server searches for the content and the content acquisition program acquires content for delivery to the user. The request and results processing server includes a search request processor that receives information related to a user's search request and provides the information to a search results form builder that creates an electronic search request. The search request may be augmented by using a content suggestion engine to add additional search terms and descriptions to the search request. The aggregator may also include a decoder that decodes program content and program metadata from remote sources for storage at the aggregator, and an encoder that encodes content metadata and programs for delivery to the user. The aggregator may also comprise one or more crawlers, such as a content crawler, to look for program content in one or more digital communications networks." (Abstract).

Noteworthy is that the newly cited reference, McCoskey et al., does not teach, suggest, or motivate, either expressly or implicitly, its aggregator as being even capable of performing a **simultaneous consideration of content across a plurality of media in a plurality of data formats**. McCoskey et al. merely disclose that the "aggregator may also comprise one or more crawlers, such as a content crawler, to look for program content in one or more digital communication networks" (Abstract). McCoskey et al. never disclose that these crawlers actually perform their functions simultaneously (Paras. 92 and 97), notwithstanding the Examiner's belief that a plurality of crawlers would somehow behave in a contemporaneous manner. McCoskey et al. never disclose that the aggregator comprises a "smart filter" per se anywhere in the reference.

Additionally, although McCoskey et al. teach a "content suggestion engine," nowhere does the reference ever teach, or even imply, that such "content suggestion engine" is in any way "enhanced" (Figs, 14a and 14b; Paras. 97 and 98) or that it, in any way, **searches and analyzes content for its unique nature as claimed in the present invention**. McCoskey et al. also merely teach the selection of programming in terms of "content format," not actual "data" format. Although McCoskey et al. teach reformatting a searched piece of content (searched on other bases), McCoskey et al. do not teach, suggest, or motivate, any filter selection criteria based on a plurality of different sources and a plurality of different data formats in the manner of the present invention. Furthermore, the search criteria of McCoskey et al. do not comprise two or more of a programming network identifier, an indication of source, a network call sign for a station, a broadcast starting time, a broadcast stopping time, a description of the content, information pertaining to the content, an indication of a bearer medium, a sample of the content, a promotional sample of the content, a previously prepared trailer, and a preview of the content resulting in an ability to make a recommendation based on a **content nature uniqueness**.

In contrast to the cited art, the present invention involves the following salient features, *inter alia*: "**automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of**

discrete indicators;" "providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user," "wherein the step of providing the at least one smart filter comprises providing at least two user-selectable characterizing descriptor filters," "wherein the step of providing the at least two user-selectable characterizing descriptor filters comprises providing the descriptor filters in a relationship selected from a group consisting essentially of a shared common filter criteria set and a mutually exclusive filter criteria set," and **"wherein the at least one smart filter providing step comprises simultaneously considering content across a plurality of media, thereby providing a coordinated joint display comprising a plurality of integrated results, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats;"** and **"automatically displaying additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area."** [Emphasis added.]

As such, the Appellants respectfully submit that the cited art does not teach, suggest, motivate, or otherwise obviate the combination of elements and limitations as respectively recited in herein amended independent Claims 1 and 15 of the present application, wherein some of the combined salient features are indicated in boldface:

> 1. A method of automatically displaying content to at least one user, comprising:
> providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of data;
> on a display comprising a two-dimensional display region,
> simultaneously providing a plurality of discrete indicators within the two-dimensional display region for at least some of the discrete selectable items of data, which discrete indicators comprise at least a portion of the characterizing descriptors as corresponds to the discrete selectable items of data;
> providing a segregated display area within the two-dimensional display region; and

automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators;

providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user,

wherein the step of providing the at least one smart filter comprises providing at least two user-selectable characterizing descriptor filters,

wherein the step of providing the at least two user-selectable characterizing descriptor filters comprises providing the descriptor filters in a relationship selected from a group consisting essentially of a shared common filter criteria set and a mutually exclusive filter criteria set, and

wherein the at least one smart filter providing step comprises simultaneously considering content across a plurality of media, thereby providing a coordinated joint display comprising a plurality of integrated results, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats; and

automatically displaying additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area. [Emphasis added.]

15. An interactive automatic data display system for at least one user, comprising:

characterizing descriptors as individually correspond to a plurality of discrete selectable items of data;

at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter comprising an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, each at least one smart filter being customizable for each at least one user,

wherein the at least one smart filter comprises at least two user-selectable characterizing descriptor filters,

wherein the at least two user-selectable characterizing descriptor filters comprise a relationship selected from a group consisting essentially of a shared common filter criteria set and a mutually exclusive filter criteria set, and

wherein the at least one smart filter simultaneously considers content across a plurality of media, whereby a coordinated joint display, comprising a plurality of integrated results, is provided, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats; and

control circuitry that:

displays a plurality of discrete indicators within a two-dimensional display region for at least some of the discrete selectable items of data, which discrete indicators comprise at least a portion of the characterizing descriptors as corresponds to the discrete selectable items of data;

provides a segregated display area within the two-dimensional display region;

automatically causes relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-

> **dimensional display region of one of the segregated display area and the plurality of discrete indicators; and**
>
> **automatically displays additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area.** [Emphasis added.]

Accordingly, Claims 2-8, 16-19, and 20, subsuming the limitations of their respective base claims by dependency, are also believed to overcome the cited art.

In addition, the Appellants respectfully submit that the April 13, 2010, Final Office Action has not properly ascertained the differences between the prior art and the claims at issue or resolved the level of ordinary skill in the pertinent art. Reiterating, the Appellants recognize that an obviousness rejection may be proper in certain instances in light of *KSR v. Teleflex, Inc., et al.*, 550 U.S. 398, 127 S.Ct. 1727, 82 U.S.P.Q.2d 1385 (2007). However, *KSR v. Teleflex* specifically holds that the proper objective framework for such an obviousness inquiry is still set forth in *Graham v. John Deere Co.*, 383 U.S. 1 (1966), (*KSR International v. Teleflex, Inc. et al.*, Slip Op 04-1350 at 17): "Under *§ 103*, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and *the level of ordinary skill in the pertinent art* resolved." [Emphasis added.]

Specifically, the Appellants respectfully submit that the Examiner has not properly ascertained the differences between the prior art and the claims at issue or resolved the level of ordinary skill in the pertinent art. For example, the Appellants note that a distinction between the primary reference, Knudson et al., and presently claimed invention is that Knudson et al. merely disclose a **stationary** "scrolling controllable ticker," **wherein the indicia are moving within and relative to the fixed window which define the scrolling controllable ticker.** Knudson et al. actually teach (col. 13, l. 55 - col. 15, l. 59; Figs. 13, 14a, and 14b):

> Another aspect of the invention involves **displaying a controllable ticker on the user's television screen.** As shown in FIG. 13, **controllable ticker 186 may be displayed by the program guide on the user's television screen 188 as an overlay on top of a television program 190** (e.g., the program showing on channel 4).
>
> Controllable ticker 186 may contain a selectable category 192 such as major league baseball, National Football League (NFL) football, National Hockey League (NHL) hockey, news, or any other suitable user-defined or predefined category. The **user may select from different categories that are available using right and left remote control cursor keys** as indicated by

arrows 194. For example, if the user is viewing the controllable ticker 186 shown on the top screen 188 of FIG. 13 in which the selected category is "major league baseball," pressing the right cursor key will direct the program guide to present the controllable ticker 186 shown in the center screen 188 of FIG. 13 in which the selected category is National Football League.

Each category 192 has a number of associated items of status information. For example, in the controllable ticker 186 shown in the top screen 188 of FIG. 13, the program guide has displayed status information item 196 (the game title, current score, and current inning, of the Phillies at Pirates game). Status information items for sports-related categories such as status information item 196 contain real-time data such as current score information and game status information. Status information items for other types of categories contain other suitable types of real-time data. For example, status information items associated with the category news may be "stocks," "bonds," "world," "national," or "weather."

An icon such as television icon 187 may be displayed with a status information item such as status information item 196 that corresponds to a program listing for a program or channel that is available on the user's user television equipment. The user may select a status information item that contains a television icon (or other suitable indicator of television program availability) as shown in FIG. 4. This allows the user to record a program, tune to a program or channel, set a reminder for a program, purchase a pay program, or display additional information such as status information or listings information, etc. If desired, certain additional information such as program listings information may be obtained even if the television icon or other indicator is not used.

A user may select from among the various status information items associated with a given category by using up and down remote control cursor keys as indicated by arrows 198. For example, if the program guide is displaying the controllable ticker 186 shown on the upper screen 188 of FIG. 13 and the user presses a down cursor key, the program guide may be directed to display the lower screen 188 of FIG. 13, which contains a controllable ticker 186 in which the next available status information item 196 (information on the Orioles at Red Sox game) is displayed.

Steps involved in providing the controllable ticker are shown in FIG. 14a. At step 200, the program guide provides the user with an opportunity to invoke the controllable ticker. After the user presses a remote control play key or other suitable button (e.g., to make an on-screen menu selection), the program guide displays the controllable ticker at step 202. If desired, the controllable ticker may be integrated into a program guide browse function and accessed by changing the channel or time displayed in the browse display outside the normal channel or time range. Initially, the most popular category and status information item for that category may be displayed. The controllable ticker may be displayed as an overlay on top of a television program or other currently existing screen. **An advantage of providing the controllable ticker as an overlay on top of an existing television program is that it allows the user to continue to listen to and watch the program while the controllable ticker is displayed.** If desired, the controllable ticker may be provided as a full screen. The audio of an existing television program may be retained during this display to provide the user with a cue that the program is still being broadcast. Other suitable arrangements are shown in FIGS. 27a, 27b, and 27c. As shown in FIG. 27a, the controllable ticker may be displayed on a portion of the user's television screen while a reduced-size version of the video for the current channel is simultaneously displayed with appropriate masked regions. This allows the aspect ratio of normal television to be preserved for the video portion of the display. As shown in FIG. 27b, the controllable ticker can be displayed in the form of an "L" shape. The space in the vertical portion of the controllable ticker may be used to display statistics, etc. As shown in FIG. 27c, while the controllable ticker is being displayed, the video for the current television channel may be displayed on one portion of the display screen while advertisements are displayed on another portion of the display screen. An advantage of arrangements such as those of FIGS. 27a, 27b, and 27c is that they allow the user to continue to listen to and watch the current television program, just as when the video for the current television

> program is simultaneously displayed with the controllable ticker by overlaying the controllable ticker on top of the current program. All of these arrangements are merely illustrative. Any suitable arrangement may be used if desired.
>
> If the user presses a left or right remote control cursor key or some other suitable button, the program guide changes the category for the controllable ticker at step 204 of FIG. 14a. The controllable ticker containing the newly selected category is displayed at step 202. If the user presses an up or down remote control cursor key or some other suitable button, the program guide changes the selected status information item to the next status information item in the selected category at step 206. For example, if the category is news and the current status information item is "stock prices," pressing an up or down cursor key may direct the program guide to change to the status information item "weather news" at step 206. The controllable ticker with the newly selected status information item is displayed at step 202.
>
> **As shown in FIG. 14b, the controllable ticker may be automatically scrolled.** With this approach, the program guide provides the user with an opportunity to invoke the controllable ticker at step 280. After the user presses a remote control play key or other suitable button (e.g., to activate an on-screen menu selection), **the program guide displays an automatically scrolling controllable ticker at step 282. Either the controllable ticker categories, status information items, or both may be automatically scrolled by the program guide.** When the user presses a remote control key such as a cursor or stop key, the program guide stops the scrolling motion of the ticker and displays a corresponding stationary controllable ticker at step 284.
>
> **If the user presses a left or right cursor key (for example), the program guide changes the category for the controllable ticker at step 286. If the user presses an up or down cursor key (for example) the program guide changes the status information item to the previous or next such item at step 289. If desired, the scrolling action of the controllable ticker may be resumed after a predetermined amount of time elapses (e.g., 15 seconds) or after the user presses play. As shown by line 288, in these situations the program guide resumes scrolling of the controllable ticker and displays the automatically scrolling controllable ticker at step 282.** [Emphasis added.]

Specifically, Knudson et al. teach "the program guide displays an automatically scrolling controllable ticker at step 282. **Either the controllable ticker categories, status information items, or both may be automatically scrolled by the program guide."** [Emphasis added.] Although the primary reference teaches that "**the controllable ticker categories, status information items, or both may be automatically scrolled[,]**" nowhere in the primary reference can any teaching be found for the reverse movement relationship, i.e., that the window defined by the ticker can be automatically scrolled over a plurality of indicia, e.g., the controllable ticker categories or the status information items. [Emphasis added.] Further, the primary reference even teaches against the present invention in stating, "**An advantage of providing the controllable ticker as an overlay on top of an existing television program is that it allows the user to continue to listen to and watch the program while the controllable ticker is displayed.**" [Emphasis added.] In the electronic programming guide of the primary reference, the stationary condition of the window defining the ticker is desirable, because it

"allows the user to continue to listen to and watch the program while the controllable ticker is displayed[.]" [Emphasis added.]

However, the present application claims the following salient features, *inter alia*: "**automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators**[.]" [Emphasis added.] This being so, the present invention comprises a segregated display area which may move in relation to the plurality of discrete indicators, e.g., in a reverse movement relationship. The April 13, 2010, Final Office Action fails to explain how Knudson et al.'s electronic program guide may be modified to encompass the claimed feature of "**automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators**[,]" *inter alia*, i.e., ascertained the differences between the prior art and the claims at issue. [Emphasis added.]

As such, the Appellants respectfully submit that the Examiner fails to resolve the level of ordinary skill in the art and has failed to show any evidence in the form of enabling details that one of ordinary skill would modify Knudson et al. to encompass the claimed feature of "**automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators**[,]"as proposed in the April 13, 2010, Final Office Action, other than by a blanket statement. [Emphasis added.] As such, the Appellants respectfully submit that the Examiner has not sustained the rejection of the claims on the basis of obviousness, even under *KSR v. Teleflex.*

Further, the Appellants respectfully submit that the rejection on this basis is actually grounded in impermissible hindsight reconstruction by piecing together the cited references by using the Appellants' claimed invention as a roadmap. The Examiner has merely made a blanket

statement that one of ordinary skill would combine the teachings of Knudson et al. (US 7386871), Ahmad et al. (US 6263507), and McCoskey (US 2003/0028889), without presenting any evidence thereof.

The relevant procedural section is MPEP § 2142 which provides that ".... In view of all factual information, the examiner must then make a determination **whether the claimed invention "as a whole" would have been obvious at that time to that person. Knowledge of applicant's disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the "differences," conduct the search and evaluate the "subject matter as a whole" of the invention. The tendency to resort to "hindsight" based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.**" [Emphasis added.]

In the instant case, the Examiner has pieced together elements from the three cited references to arrive at the claimed invention. Where a claimed limitation has not been expressly or implicitly disclosed, e.g., "**automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators**" or "**providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user**," the Examiner merely makes a blanket statement that such limitation is "disclosed" or obviated without proffering any evidence thereof or rationale therefore. [Emphasis added.]

In addition, the rule under MPEP § 707.07(g) provides for the avoidance of "Piecemeal Examination" as follows: "**Piecemeal examination should be avoided** as much as possible.

The examiner ordinarily should reject each claim on all valid grounds available, **avoiding, however, undue multiplication of references**. (See MPEP § 904.03.) ...." {Emphasis added.] In the instant case, the Examiner has used a multiplicity of references in asserting these grounds for rejection on this basis.

3. Conclusion as to Issue A

Thus, the Appellants respectfully submit that Claims 1-6 and 8-15 are believed to overcome these grounds for rejection. Therefore, the Appellants respectfully request that these grounds for rejection on this basis are reversed and that Claims 1-6 and 8-15 are passed to allowance in due course.

B. Whether Claims 9-14 are unpatentable, under 35 U.S.C. § 103(a), over Knudson et al. (US 7386871), in view of Ahmad et al. (US 6263507), and in further view of Reisman (US 2004/0031058) and McCoskey et al. (US 2003/0028889)

1. Specific Nature of the Rejection as to Issue B

Claims 9-14 have been rejected, under 35 U.S.C. § 103(a), as being unpatentable over Knudson et al. (US 7386871), in view of Ahmad et al. (US 6263507), and in further view of Reisman (US 2004/0031058) and McCoskey et al. (US 2003/0028889), on the grounds that Knudson et al. disclose "... a method comprising: providing access to characterizing descriptors ...[,]" that Ahmad et al. disclose "... automatically displaying additional, related information based on the current position of a marker ...[,]" that Reisman discloses "... to differentiate levels of service ... the display of filtered and ranked program listings ...[,]" and that McCoskey et al. discloses "... providing at least one smart filter ...." (April 13, 2010, Final Office Action, Section 5). The Appellants respectfully traverse these grounds for rejection on this basis.

2. Analysis of the patentable distinctions between the present invention and Knudson et al. (US 7386871), in view of Ahmad et al. (US

6263507), and in further view of Reisman (US 2004/0031058) and McCoskey et al. (US 2003/0028889), as to Issue B

The law, under 35 U.S.C. § 103, is well settled that, for a cited reference or a combination of references to render obvious a claimed invention, the combination of the claimed elements and limitations must be taught, suggested, motivated, or otherwise obviated by that cited reference or that combination of cited references, even under *KSR v. Teleflex, Inc., et al.*, 550 U.S. 398, 127 S.Ct. 1727, 82 U.S.P.Q.2d 1385 (2007). See also *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985); *In re Hoch,* 428 F.2d 1341, 1342 n.3 166 USPQ 406, 407 n. 3 (CCPA 1970); and *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966).

In particular, *KSR v. Teleflex* holds that the proper objective framework for such an obviousness inquiry is set forth in *Graham v. John Deere Co.*, 383 U.S. 1 (1966), (*KSR International v. Teleflex, Inc. et al.,* Slip Op 04-1350 at 17): "Under *§ 103*, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and *the level of ordinary skill in the pertinent art* resolved." [Emphasis added.]

The combination of elements and limitations, *inter alia*, that patentably distinguish independent Claim 9, as amended on February 9, 2010, from Knudson et al. (US 7386871), even in view of Ahmad et al. (US 6263507), and even in further view of Reisman (US 2004/0031058) and McCoskey et al. (US 2003/0028889), are as follows:

a. "providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of data;"

b. "providing a plurality of user-selectable characterizing descriptor filter criteria;"

c. "on a display comprising a two-dimensional display region,"

d. "simultaneously providing a plurality of discrete indicators within the two-dimensional display region for at least a portion of the discrete selectable items of data as corresponds to a present selection of a characterizing descriptor filter criterion, which discrete indicators comprise at least a portion of the characterizing descriptors as corresponds to the discrete selectable items of data;"

e. "providing a segregated display area within the two-dimensional display region;" and

f. "**automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators;**"

g. "**providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user,**"

h. "**wherein the step of providing the at least one smart filter comprises providing at least two user-selectable characterizing descriptor filters,**"

i. "**wherein the step of providing the at least two user-selectable characterizing descriptor filters comprises providing the descriptor filters in a relationship selected from a group consisting essentially of a shared common filter criteria set and a mutually exclusive filter criteria set,**" and

j. "**wherein the at least one smart filter simultaneously considers content across a plurality of media, thereby providing a coordinated joint display comprising a plurality of integrated results, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats;**" and

k. "**automatically displaying additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area.**" [Emphasis added.]

Thus, by dependency, Claims 10-14, subsuming the combination of elements and limitations of base Claim 9 by dependency, are also believed to be patentably distinct over Knudson et al. (US 7386871), even in view of Ahmad et al. (US 6263507), and even in further

view of Reisman (US 2004/0031058) and McCoskey et al. (US 2003/0028889).

Analyzing the facts as to Claims 9-14 in relation to Issue B, the Examiner concedes that Knudson et al. do not teach "automatically displaying additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area[,]" that Knudson et al. and that Ahmad et al. do not teach "providing a plurality of user-selectable characterizing descriptor filter criteria; nor displaying the selectable items of data as corresponds to a present selection of a characterizing descriptor filter criterion[,]" and that Reisman does not teach "providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, ... the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user" (April 13, 2010, Final Office Action, Section 5).

With respect to the primary cited reference under this ground for rejection, Knudson et al. merely disclose: "A program guide system is provided in which an interactive television program guide that is implemented at least partially on user television equipment receives program listings data and real-time data such as sports scores, news data, and the like. The real-time data may be stored in a database maintained by the program guide, so that the program guide may access the stored real-time data at a later time. Updated program listings information may be provided to the program guide as part of the data stream in which the real-time data is provided. Unique keys may be generated for the program listings data and real-time data associated with each live event. The keys may be compared at the program guide to determine which program listings correspond to which items of real-time data. A controllable ticker may be displayed on top of a television program on the user television equipment. The controllable ticker may be sponsored. Different types of real-time data may be assigned different expiration times. When data has expired it may be removed from the database." (Abstract).

With respect to the secondary cited reference under this ground for rejection, Ahmad merely disclose: "The invention facilitates and enhances review of a body of information (that can be represented by a set of audio data, video data, text data or some combination of the three), enabling the body of information to be quickly reviewed to obtain an overview of the content of the body of information and allowing flexibility in the manner in which the body of information is reviewed. In a particular application of the invention, the content of audiovisual news programs is acquired from a first set of one or more information sources (e.g., television news programs) and text news stories are acquired from a second set of one or more information sources (e.g., on-line news services or news wire services). In such a particular application, the invention can enable the user to access the news stories of audiovisual news programs in a random manner so that the user can move quickly among news stories or news programs. The invention can also enable the user to quickly locate news stories pertaining to a particular subject. Additionally, when the user is observing a particular news story in a news program, the invention can identify and display related news stories. The invention can also enable the user to control the display of the news programs by, for example, speeding up the display, causing a summary of one or more news stories to be displayed, or pausing the display of the news stories. Additionally, the invention can indicate to the user which news story is currently being viewed, as well as which news stories have previously been viewed." (Abstract).

With respect to the tertiary cited reference under this ground for rejection, Reisman merely discloses: "Systems and methods for navigating hypermedia using multiple coordinated input/output device sets. Disclosed systems and methods allow a user and/or an author to control what resources are presented on which device sets (whether they are integrated or not), and provide for coordinating browsing activities to enable such a user interface to be employed across multiple independent systems. Disclosed systems and methods also support new and enriched aspects and applications of hypermedia browsing and related business activities." (Abstract).

With respect to the quaternary cited reference under this ground for rejection, McCoskey et al. actually disclose: "A system for searching, packaging and delivering content using an aggregator is described. The aggregator processes requests, searches, provides search results and

acquires content. The aggregator, operating in a communications network, includes a request and results processing server, a search engine server coupled to the request and results processing server and a content acquisition server coupled to the request and results processing server. A request and results processing server receives a request for content, the search engine server searches for the content and the content acquisition program acquires content for delivery to the user. The request and results processing server includes a search request processor that receives information related to a user's search request and provides the information to a search results form builder that creates an electronic search request. The search request may be augmented by using a content suggestion engine to add additional search terms and descriptions to the search request. The aggregator may also include a decoder that decodes program content and program metadata from remote sources for storage at the aggregator, and an encoder that encodes content metadata and programs for delivery to the user. The aggregator may also comprise one or more crawlers, such as a content crawler, to look for program content in one or more digital communications networks." (Abstract).

Noteworthy is that the newly cited reference, McCoskey et al., do not teach, suggest, or motivate, either expressly or implicitly, its aggregator as being even capable of performing a **simultaneous consideration of content across a plurality of media in a plurality of data formats**. McCoskey et al. merely disclose that the "aggregator may also comprise one or more crawlers, such as a content crawler, to look for program content in one or more digital communication networks" (Abstract). McCoskey et al. never disclose that these crawlers actually perform their functions simultaneously (Paras. 92 and 97), notwithstanding the Examiner's belief that a plurality of crawlers would somehow behave in a contemporaneous manner. McCoskey et al. never disclose that the aggregator comprises a "smart filter" per se anywhere in the reference.

Additionally, although McCoskey et al. teach a "content suggestion engine," nowhere does the reference ever teach, or even imply, that such "content suggestion engine" is in any way "enhanced" (Figs, 14a and 14b; Paras. 97 and 98) or that it is in any way **searches and analyzes content for its unique nature as claimed in the present invention**. McCoskey et al. also merely teach the selection of programming in terms of "content format," not actual "data"

format. Although McCoskey et al. teach reformatting a searched piece of content (searched on other bases), McCoskey et al. do not teach, suggest, or motivate, any filter selection criteria based on a plurality of different sources and a plurality of different data formats in the manner of the present invention. Furthermore, the search criteria of McCoskey et al. do not comprise two or more of a programming network identifier, an indication of source, a network call sign for a station, a broadcast starting time, a broadcast stopping time, a description of the content, information pertaining to the content, an indication of a bearer medium, a sample of the content, a promotional sample of the content, a previously prepared trailer, and a preview of the content resulting in an ability to make a recommendation based on a **content nature uniqueness**.

In contrast to the cited art, the present invention involves the following salient features, *inter alia*: "providing at least one **smart filter** for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an **enhanced suggestion engine** for making at least one **recommendation based on a content nature uniqueness**, the at least one smart filter providing step comprising providing **each at least one smart filter being customizable for each at least one user**, wherein the at least one **smart filter *simultaneously considers* content across a plurality of media**, thereby providing a coordinated joint display comprising a plurality of integrated results, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of **a plurality of different sources and a plurality of different data formats**[.]"

As such, the Appellants respectfully submit that the cited art does not teach, suggest, motivate, or otherwise obviate, in any other manner, the combination of elements and limitations, *inter alia*, as recited in independent Claim 9 of the present application, some of the combined salient features being indicated in boldface:

> 9. A method of automatically displaying content to at least one user, comprising:
> providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of data;
> providing a plurality of user-selectable characterizing descriptor filter criteria;
> on a display comprising a two-dimensional display region,

> simultaneously providing a plurality of discrete indicators within the two-dimensional display region for at least a portion of the discrete selectable items of data as corresponds to a present selection of a characterizing descriptor filter criterion, which discrete indicators comprise at least a portion of the characterizing descriptors as corresponds to the discrete selectable items of data;
>
> providing a segregated display area within the two-dimensional display region; and
>
> **automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators;**
>
> **providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user,**
>
> **wherein the step of providing the at least one smart filter comprises providing at least two user-selectable characterizing descriptor filters,**
>
> **wherein the step of providing the at least two user-selectable characterizing descriptor filters comprises providing the descriptor filters in a relationship selected from a group consisting essentially of a shared common filter criteria set and a mutually exclusive filter criteria set, and**
>
> **wherein the at least one smart filter simultaneously considers content across a plurality of media, thereby providing a coordinated joint display comprising a plurality of integrated results, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats; and**
>
> **automatically displaying additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area.** [Emphasis added.]

Accordingly, Claims 10-14, subsuming the limitations of their respective base claims by dependency, are also believed to overcome the cited art.

In addition, the Appellants respectfully submit that the April 13, 2010, Final Office Action has not properly ascertained the differences between the prior art and the claims at issue or resolved the level of ordinary skill in the pertinent art. Reiterating, the Appellants recognize that an obviousness rejection may be proper in certain instances in light of *KSR v. Teleflex, Inc., et al.*, 550 U.S. 398, 127 S.Ct. 1727, 82 U.S.P.Q.2d 1385 (2007). However, *KSR v. Teleflex* specifically holds that the proper objective framework for such an obviousness inquiry is still set forth in *Graham v. John Deere Co.*, 383 U.S. 1 (1966), (*KSR International v. Teleflex, Inc. et al.*, Slip Op 04-1350 at 17): "Under *§ 103*, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and

the level of ordinary skill in the pertinent art resolved." [Emphasis added.]

Specifically, the Appellants respectfully submit that the Examiner has not properly ascertained the differences between the prior art and the claims at issue or resolved the level of ordinary skill in the pertinent art. For example, the Appellants note that a distinction between the primary reference, Knudson et al., and presently claimed invention is that Knudson et al. merely disclose a **stationary** "scrolling controllable ticker," **wherein the indicia are moving within and relative to the fixed window which define the scrolling controllable ticker**. Knudson et al. actually teach (col. 13, l. 55 - col. 15, l. 59; Figs. 13, 14a, and 14b):

> Another aspect of the invention involves **displaying a controllable ticker on the user's television screen**. As shown in FIG. 13, **controllable ticker 186 may be displayed by the program guide on the user's television screen 188 as an overlay on top of a television program 190** (e.g., the program showing on channel 4).
>
> Controllable ticker 186 may contain a selectable category 192 such as major league baseball, National Football League (NFL) football, National Hockey League (NHL) hockey, news, or any other suitable user-defined or predefined category. The **user may select from different categories that are available using right and left remote control cursor keys** as indicated by arrows 194. For example, if the user is viewing the controllable ticker 186 shown on the top screen 188 of FIG. 13 in which the selected category is "major league baseball," pressing the right cursor key will direct the program guide to present the controllable ticker 186 shown in the center screen 188 of FIG. 13 in which the selected category is National Football League.
>
> Each category 192 has a number of associated items of status information. For example, in the controllable ticker 186 shown in the top screen 188 of FIG. 13, the program guide has displayed status information item 196 (the game title, current score, and current inning, of the Phillies at Pirates game). Status information items for sports-related categories such as status information item 196 contain real-time data such as current score information and game status information. Status information items for other types of categories contain other suitable types of real-time data. For example, status information items associated with the category news may be "stocks," "bonds," "world," "national," or "weather."
>
> An icon such as television icon 187 may be displayed with a status information item such as status information item 196 that corresponds to a program listing for a program or channel that is available on the user's user television equipment. The user may select a status information item that contains a television icon (or other suitable indicator of television program availability) as shown in FIG. 4. This allows the user to record a program, tune to a program or channel, set a reminder for a program, purchase a pay program, or display additional information such as status information or listings information, etc. If desired, certain additional information such as program listings information may be obtained even if the television icon or other indicator is not used.
>
> **A user may select from among the various status information items associated with a given category by using up and down remote control cursor keys** as indicated by arrows 198. For example, if the program guide is displaying the controllable ticker 186 shown on the upper screen 188 of FIG. 13 and the user presses a down cursor key, the program guide may be directed to display the lower screen 188 of FIG. 13, which contains a controllable ticker 186 in which the

next available status information item 196 (information on the Orioles at Red Sox game) is displayed.

Steps involved in providing the controllable ticker are shown in FIG. 14a. At step 200, the program guide provides the user with an opportunity to invoke the controllable ticker. After the user presses a remote control play key or other suitable button (e.g., to make an on-screen menu selection), the program guide displays the controllable ticker at step 202. If desired, the controllable ticker may be integrated into a program guide browse function and accessed by changing the channel or time displayed in the browse display outside the normal channel or time range. Initially, the most popular category and status information item for that category may be displayed. The controllable ticker may be displayed as an overlay on top of a television program or other currently existing screen. **An advantage of providing the controllable ticker as an overlay on top of an existing television program is that it allows the user to continue to listen to and watch the program while the controllable ticker is displayed.** If desired, the controllable ticker may be provided as a full screen. The audio of an existing television program may be retained during this display to provide the user with a cue that the program is still being broadcast. Other suitable arrangements are shown in FIGS. 27a, 27b, and 27c. As shown in FIG. 27a, the controllable ticker may be displayed on a portion of the user's television screen while a reduced-size version of the video for the current channel is simultaneously displayed with appropriate masked regions. This allows the aspect ratio of normal television to be preserved for the video portion of the display. As shown in FIG. 27b, the controllable ticker can be displayed in the form of an "L" shape. The space in the vertical portion of the controllable ticker may be used to display statistics, etc. As shown in FIG. 27c, while the controllable ticker is being displayed, the video for the current television channel may be displayed on one portion of the display screen while advertisements are displayed on another portion of the display screen. An advantage of arrangements such as those of FIGS. 27a, 27b, and 27c is that they allow the user to continue to listen to and watch the current television program, just as when the video for the current television program is simultaneously displayed with the controllable ticker by overlaying the controllable ticker on top of the current program. All of these arrangements are merely illustrative. Any suitable arrangement may be used if desired.

If the user presses a left or right remote control cursor key or some other suitable button, the program guide changes the category for the controllable ticker at step 204 of FIG. 14a. The controllable ticker containing the newly selected category is displayed at step 202. If the user presses an up or down remote control cursor key or some other suitable button, the program guide changes the selected status information item to the next status information item in the selected category at step 206. For example, if the category is news and the current status information item is "stock prices," pressing an up or down cursor key may direct the program guide to change to the status information item "weather news" at step 206. The controllable ticker with the newly selected status information item is displayed at step 202.

As shown in FIG. 14b, the controllable ticker may be automatically scrolled. With this approach, the program guide provides the user with an opportunity to invoke the controllable ticker at step 280. After the user presses a remote control play key or other suitable button (e.g., to activate an on-screen menu selection), **the program guide displays an automatically scrolling controllable ticker at step 282. Either the controllable ticker categories, status information items, or both may be automatically scrolled by the program guide.** When the user presses a remote control key such as a cursor or stop key, the program guide stops the scrolling motion of the ticker and displays a corresponding stationary controllable ticker at step 284.

If the user presses a left or right cursor key (for example), the program guide changes the category for the controllable ticker at step 286. If the user presses an up or down cursor key (for example) the program guide changes the status information item to the previous or next such item at step 289. If desired, the scrolling action of the controllable ticker may be resumed after a predetermined amount of time elapses (e.g., 15 seconds) or

> **after the user presses play. As shown by line 288, in these situations the program guide resumes scrolling of the controllable ticker and displays the automatically scrolling controllable ticker at step 282.** [Emphasis added.]

Specifically, Knudson et al. teach "the program guide displays an automatically scrolling controllable ticker at step 282. **Either the controllable ticker categories, status information items, or both may be automatically scrolled by the program guide."** [Emphasis added.] Although the primary reference teaches that "**the controllable ticker categories, status information items, or both may be automatically scrolled[,]**" nowhere in the primary reference can any teaching be found for the reverse movement relationship, i.e., that the window defined by the ticker can be automatically scrolled over a plurality of indicia, e.g., the controllable ticker categories or the status information items. [Emphasis added.] Further, the primary reference even teaches against the present invention in stating, "**An advantage of providing the controllable ticker as an overlay on top of an existing television program is that it allows the user to continue to listen to and watch the program while the controllable ticker is displayed.**" In the electronic programming guide of the primary reference, the stationary condition of the window defining the ticker is desirable, because it "**allows the user to continue to listen to and watch the program while the controllable ticker is displayed[.]**"

However, the present application claims the following salient features, *inter alia*: "**automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators**[.]" [Emphasis added.] This being so, the present invention comprises a segregated display area which may move in relation to the plurality of discrete indicators, e.g., in a reverse movement relationship. The April 13, 2010, Final Office Action fails to explain how Knudson et al.'s electronic program guide may be modified to encompass the claimed feature of "**automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators**[,]" *inter alia*, i.e., ascertained the differences between the prior art and the claims at issue. [Emphasis added.]

As such, the Appellants respectfully submit that the Examiner fails to resolve the level of ordinary skill in the art and has failed to show any evidence in the form of enabling details that one of ordinary skill would modify Knudson et al. to encompass the claimed feature of "**automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators**[,]"as proposed in the April 13, 2010, Final Office Action, other than by a blanket statement. As such, the Appellants respectfully submit that the Examiner has not sustained the rejection of the claims on the basis of obviousness, even under *KSR v. Teleflex.*

Further, the Appellants respectfully submit that the rejection on this basis is actually grounded in impermissible hindsight reconstruction by piecing together the four cited references by using the Appellants' claimed invention as a roadmap. The Examiner has merely made a blanket statement that one of ordinary skill would combine the teachings of Knudson et al. (US 7386871), Ahmad et al. (US 6263507), Reisman (US 2004/0031058), and McCoskey et al. (US 2003/0028889), without presenting any evidence thereof.

The relevant procedural section is MPEP § 2142 which provides that "…. In view of all factual information, the examiner must then make a determination **whether the claimed invention "as a whole" would have been obvious at that time to that person. Knowledge of applicant's disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the "differences," conduct the search and evaluate the "subject matter as a whole" of the invention. The tendency to resort to "hindsight" based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.**" [Emphasis added.]

In the instant case, the Examiner has pieced together elements from the inordinate number of four cited references to arrive at the claimed invention. Where a claimed limitation has not been expressly or implicitly disclosed, e.g., "**automatically causing relative movement**

as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators" or "**providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user**," the Examiner merely makes a blanket statement that such limitation is "disclosed" or obviated without proffering any evidence thereof or rationale therefore.

In addition, the rule under MPEP § 707.07(g) provides for the avoidance of "Piecemeal Examination" as follows: "**Piecemeal examination should be avoided** as much as possible. The examiner ordinarily should reject each claim on all valid grounds available, **avoiding, however, undue multiplication of references**. (See MPEP § 904.03.) ...." {Emphasis added.] In the instant case, the Examiner has used a multiplicity of references, e.g., **four** references, in asserting these grounds for rejection on this basis.

3. Conclusion as to Issue B

Thus, the Appellants respectfully submit that Claims 7, 16, 17, 20-26, and 28 are believed to overcome these grounds for rejection. Therefore, the Appellants respectfully request that these grounds for rejection on this basis are reversed and that Claims 7, 16, 17, 20-26, and 28 are passed to allowance in due course.

C. Whether, in finally rejecting Claims 1-20, the Examiner has erred, as a matter of law, in failing to consider and treat the present application, having more than three (3) actions and a pendency of more than five (5) years, as "special," under MPEP §§ 707.02 and 708.01

Further, the Appellants respectfully submit that the present application has now been pending for over five years, i.e., **over six (6) years** as of the original filing date, **March 23, 2004**, of the present application. The relevant rules are as follows (MPEP §§ 707.02, 708.01):

707.02 Applications Up for Third Action and 5-Year Applications[R-2]

The supervisory patent examiners should impress their assistants with the fact that the shortest path to the final disposition of an application is by finding the best references on the first search and carefully applying them.

The supervisory patent examiners are expected to personally check on the pendency of every application which is up for the third or subsequent Office Action with a view to finally concluding its prosecution.

Any application that has been pending five years should be carefully studied by the supervisory patent examiner and every effort should be made to terminate its prosecution.

In order to accomplish this result, the application is to be considered "special" by the examiner.

708.01 List of Special Cases [R-2]
37 CFR 1.102 Advancement of examination.

The following is a list of special cases (those which are advanced out of turn for examination):

(A) Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and when for that reason the head of some department of the Government requests immediate action and the *>Director of the USPTO< so orders (37 CFR 1.102).

(B) Applications made special as a result of a petition. (See MPEP § 708.02.)
Subject alone to diligent prosecution by the applicant, an application for patent that has once been made special and advanced out of turn for examination by reason of a ruling made in that particular case (by the Director of the USPTO or a Commissioner) will continue to be special throughout its entire course of prosecution in the U.S. Patent and Trademark Office, including appeal, if any, to the Board of Patent Appeals and Interferences.

(C) Applications for reissues, particularly those involved in stayed litigation (37 CFR 1.176).

(D) Applications remanded by an appellate tribunal for further action.

(E) An application, once taken up for action by an examiner according to its effective filing date, should be treated as special by an examiner, art unit or Technology Center to which it may subsequently be transferred; exemplary situations include new cases transferred as the result of a telephone election and cases transferred as the result of a timely reply to any official action.

(F) Applications which appear to interfere with other applications previously considered and found to be allowable, or which will be placed in interference with an unexpired patent or patents.

(G) Applications ready for allowance, or ready for allowance except as to formal matters.

(H) Applications which are in condition for final rejection.

(I) Applications pending more than 5 years, including those which, by relation to a prior United States application, have an effective pendency of more than 5 years. See MPEP § 707.02.

(J) Reexamination proceedings, MPEP § 2261.

Thus, the Appellants respectfully submit that, since the present application has now received **six (6) actions** on the merit and has been **pending for over six (6) years** as of the original filing date of the present application, the present application should have been treated as "special" by the Examiner under MPEP §§ 707.02 and 708.01 and that examination of the present application should have been, and should be, advanced. Therefore, the Appellants respectfully request that the grounds for rejection of Claims 1-20 on the foregoing bases are reversed and that remaining Claims 1-20 are passed to allowance in due course.

E. CONCLUSION

Accordingly, the Appellants respectfully submit that Claims 1-20, as contained in Appendix "A" (Claims Appendix), are believed to be patentably distinct over the cited references and that the Claims either stand alone or fall individually. Therefore, reconsideration of the present application in light of the foregoing argument and the evidence presented in the Appendices is respectfully requested. Claims 1-20, as amended on February 9, 2010, are believed to be fully supported by the originally filed specification and are believed to be in allowable form. In view of the foregoing arguments, the Appellants respectfully request that the rejections of the pending claims are REVERSED.

Respectfully submitted,

Dated: September 2, 2010

May Lin DeHaan
Reg. No. 42,472
Attorney for Appellants

Address all correspondence to:
Thomas F. Lebens
FITCH EVEN TABIN & FLANNERY, LLP
120 South LaSalle
Suite 1600
Chicago, IL 60603

Direct telephone inquiries to:
Thomas F. Lebens
(805) 781-2865

VIII. Claims Appendix (Appendix A)

1. (previously presented) A method of automatically displaying content to at least one user, comprising:

providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of data;

on a display comprising a two-dimensional display region,

simultaneously providing a plurality of discrete indicators within the two-dimensional display region for at least some of the discrete selectable items of data, which discrete indicators comprise at least a portion of the characterizing descriptors as corresponds to the discrete selectable items of data;

providing a segregated display area within the two-dimensional display region; and

automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators;

providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, the at least one smart filter providing step comprising providing each at least one smart filter being customizable for each at least one user,

wherein the step of providing the at least one smart filter comprises providing at least two user-selectable characterizing descriptor filters,

wherein the step of providing the at least two user-selectable characterizing descriptor filters comprises providing the descriptor filters in a relationship selected from a group consisting essentially of a shared common filter criteria set and a mutually exclusive filter criteria set, and

wherein the at least one smart filter providing step comprises simultaneously considering content across a plurality of media, thereby providing a coordinated joint display comprising a

plurality of integrated results, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats; and

automatically displaying additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area.

2. (original) The method of claim 1 wherein providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of data further comprises providing access to textual characterizing descriptors as individually correspond to a plurality of discrete selectable items of data.

3. (original) The method of claim 1 wherein simultaneously providing a plurality of discrete indicators further comprises simultaneously providing a plurality of content titles.

4. (original) The method of claim 1 wherein the plurality of discrete selectable items of data comprises a plurality of discrete selectable items of audio/visual content.

5. (previously presented) The method of claim 4 wherein the characterizing descriptors as individually correspond to a plurality of discrete selectable items of data comprises at least one of:

a programming network identifier;

a broadcast starting time;

a description of the audio/visual content; and

content media source.

6. (original) The method of claim 4 wherein the plurality of discrete selectable items of audio/visual content are embodied in a plurality of media.

7. (original) The method of claim 4 wherein automatically displaying additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area comprises automatically displaying video content as corresponds to the characterizing descriptors for the given one of the discrete indicators.

8. (original) The method of claim 4 wherein the plurality of discrete selectable items of audio/visual content comprises recently accessed items of audio/visual content.

9. (previously presented) A method of automatically displaying content to at least one user, comprising:

providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of data;

providing a plurality of user-selectable characterizing descriptor filter criteria;

on a display comprising a two-dimensional display region,

simultaneously providing a plurality of discrete indicators within the two-dimensional display region for at least a portion of the discrete selectable items of data as corresponds to a present selection of a characterizing descriptor filter criterion, which discrete indicators comprise at least a portion of the characterizing descriptors as corresponds to the discrete selectable items of data;

providing a segregated display area within the two-dimensional display region; and

automatically causing relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators;

providing at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter providing step comprising providing an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, the at least one smart filter providing step comprising providing

each at least one smart filter being customizable for each at least one user,

wherein the step of providing the at least one smart filter comprises providing at least two user-selectable characterizing descriptor filters,

wherein the step of providing the at least two user-selectable characterizing descriptor filters comprises providing the descriptor filters in a relationship selected from a group consisting essentially of a shared common filter criteria set and a mutually exclusive filter criteria set, and

wherein the at least one smart filter simultaneously considers content across a plurality of media, thereby providing a coordinated joint display comprising a plurality of integrated results, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats; and

automatically displaying additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area.

10. (original) The method of claim 9 wherein the plurality of discrete selectable items of data comprise a plurality of discrete selectable items of audio/visual content.

11. (previously presented) The method of claim 10 wherein the plurality of user-selectable characterizing descriptor filter criteria includes at least one of:

recently viewed discrete selectable items of data; and

recommended discrete selectable items of data.

12. (original) The method of claim 9 and further comprising: detecting user selection of a particular one of the plurality of discrete indicators.

13. (original) The method of claim 12 and further comprising: sending a signal indicating user selection of the particular one of the plurality of discrete indicators.

14. (original) The method of claim 12 and further comprising: detecting a remote control device signal indicating the user selection of a particular one of the plurality of discrete indicators.

15. (previously presented) An interactive automatic data display system for at least one user, comprising:

characterizing descriptors as individually correspond to a plurality of discrete selectable items of data;

at least one smart filter for facilitating determination of a particular one of the discrete selectable items of data, the at least one smart filter comprising an enhanced suggestion engine for making at least one recommendation based on at least one parameter selected from a group consisting essentially of a content nature uniqueness, a viewer identification, and a keyword, each at least one smart filter being customizable for each at least one user,

wherein the at least one smart filter comprises at least two user-selectable characterizing descriptor filters,

wherein the at least two user-selectable characterizing descriptor filters comprise a relationship selected from a group consisting essentially of a shared common filter criteria set and a mutually exclusive filter criteria set, and

wherein the at least one smart filter simultaneously considers content across a plurality of media, whereby a coordinated joint display, comprising a plurality of integrated results, is provided, the plurality of integrated results comprising an aggregate pool of candidate viewing choices being reducible on a basis of filter selection criteria from at least one element selected from a group consisting essentially of a plurality of different sources and a plurality of different formats; and

control circuitry that:

displays a plurality of discrete indicators within a two-dimensional display region for at least some of the discrete selectable items of data, which discrete indicators comprise at least a portion of the characterizing descriptors as corresponds to the discrete selectable items of data;

provides a segregated display area within the two-dimensional display region;

automatically causes relative movement as between the segregated display area and the plurality of discrete indicators by changing position along a dimension of the two-dimensional display region of one of the segregated display area and the plurality of discrete indicators; and

automatically displays additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area.

16. (original) The interactive data display system of claim 15 wherein the plurality of discrete selectable items of data comprises a plurality of discrete selectable items of audio/visual content.

17. (original) The interactive data display system of claim 16 wherein the additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area comprises video content.

18. (original) The interactive data display system of claim 15 wherein the control circuitry further: detects user selection of a particular one of the plurality of discrete indicators.

19. (original) The interactive data display system of claim 18 wherein the control circuitry further: sends a signal indicating user selection of the particular one of the plurality of discrete indicators.

20. (previously presented) The method of claim 1,

wherein providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of data further comprises providing access to textual characterizing descriptors as individually correspond to a plurality of discrete selectable items of data,

wherein simultaneously providing a plurality of discrete indicators further comprises simultaneously providing a plurality of content titles,

wherein the plurality of discrete selectable items of data comprises a plurality of discrete selectable items of audio/visual content,

wherein the characterizing descriptors as individually correspond to a plurality of discrete selectable items of data comprises at least one of:

a programming network identifier;

a broadcast starting time;

a description of the audio/visual content; and

content media source,

wherein the plurality of discrete selectable items of audio/visual content are embodied in a plurality of media,

wherein automatically displaying additional content as corresponds to the characterizing descriptors for a given one of the discrete indicators as interacts in a predetermined way, at least in part, with the segregated display area comprises automatically displaying video content as corresponds to the characterizing descriptors for the given one of the discrete indicators, and

wherein the plurality of discrete selectable items of audio/visual content comprises recently accessed items of audio/visual content.

IX. Evidence Appendix (Appendix B)

None

X. Related Proceedings Appendix

On information and belief, no decision by a court or the Board has been rendered in any of the following related proceedings: (1) U.S. Patent Application Serial No. 10/806,767 (Attorney Docket No. 81235 7114) for "Multi-Source Programming Guide Apparatus and Method," filed on March 23, 2004, and the Notice of Appeal being filed on June 30, 2010, BPAI Appeal No. (to be assigned) and (2) U.S. Patent Application Serial No. 10/806,832 (Attorney Docket No. 81205 7114) for "Filter Criteria and Results Display Apparatus and Method," filed on March 23, 2004, and the Notice of Appeal being filed on July 1, 200, BPAI Appeal No. 2010-006452.